IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28/09/2004

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.24520 of 2004
and
WPMP No.29795 of 2004

S.Tamilmani .. Petitioner

-Vs-

1. The Inspector General of
Registration
Dept. of Registrations,
Govt. of Tamil Nadu
Santhome High Road,
Chennai 600 004.
2. District Revenue Officer
(Stamps)
Coimbatore 641 018.
3. The Sub-Registrar
(District Registrar Cadre)
Singanallur,
Coimbatore 641 016. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondents particularly that of the first respondent in Ref.No.33577/C2/2004 dated 16.8.2004 and quash the same as illegal, unlawful, mala fide, without jurisdiction and against the principles of natural justice and consequently direct the third respondent to return to the petitioner the sale deed dated 7.4.2004 registered as Document No.2064/2-4 on his file.

For Petitioner : M/s.Ramalingam Associates

For Respondents : Mr.P.Chandrasekaran
Additional Government Pleader

:ORDER

The petitioner seeks a writ of certiorarified mandamus to quash the order of the first respondent dated 16.8.2004 and a direction to the third respondent to return to the petitioner the sale deed dated 7.4.2004.
2. Affidavit in support of the petition is perused. Heard the learned Counsel for the petitioner and the learned Additional Government

Pleader for the respondents also. The memo of instructions filed by the respondents is also perused.

3. As could be seen from the available materials, the petitioner before this Court is the purchaser of an immovable property, sold in auction by this Court in the matter of M/s.Raveendra Mills Ltd., a company in liquidation, and he is the nominee of the auction purchaser. Under the provisions of the Companies Act, in C.P.No.226 1999, there were winding up proceedings. Pursuant to the same, the assets of the company vested with the Official Liquidator. The assets of the company were brought for sale in Company Application No.300 of 2002. Pursuant to the permission, the Official Liquidator canvassed the sale of the assets in two lots as land & building and plant & machinery. The tenders were received, and the auction was conducted in Court on 11.2.2003. The offer of one M/s.Navabharath Trading Corporation to purchase the land and building was at Rs.3.00 crores and the plant and machinery at Rs.1.35 crores, and the same was accepted by this Court as the highest offer. By an order dated 11.2.2003, this Court confirmed the sale in two separate lots in favour of the said M/s. Navabharath Trading Corporation, Madras, and granted time for payment of the sale consideration. On the first payment of Rs.1.35 crores, the said purchaser was permitted to remove the plant and machinery from the company in liquidation. By an order dated 3.4.2003, this Court condoned the delay in payment of money and permitted the purchaser to remove the machinery with police aid, confirming the sale and delivery of one lot. In respect of the land and building, the time was extended, and permission was granted for the execution of the sale deed in favour of the nominee by an order dated 13.4.2003 on payment of the consideration of Rs.3.00 crores. At that juncture, the said M/s. Navabharath Trading Corporation has nominated the petitioner as the purchaser for the land and building of the company, and the entire consideration was paid, pursuant to which, the Official Liquidator executed the sale deed on 7.4.2004. While the matter stood so, the sale deed dated 7.4.2004, was presented for registration on 12.4.2004. The third respondent received the stamp duty of Rs.24.00 lakhs and registration charge also, but has assigned a pending number and has further retained the document, and he has referred the same to the second respondent stating that the document was undervalued. A notice was served on the petitioner, to which he has raised his objections before the first respondent stating that the third respondent should not have referred the matter to the second respondent. An order was passed by the first respondent on 14.7.2004 stating that the value of the document has to be fixed, since the sale was finalised on the basis of sealed tender. Apart from that, there was a direction that he should pay stamp duty for the entire value namely Rs.4.35 crores, which is being challenged before this Court.

4. The learned Counsel for the petitioner would submit that it was an auction conducted by the Official Liquidator, pursuant to the acceptance of the highest offer made by one M/s. Navabharath Trading Corporation, of whom the petitioner is the nominee; that the property was sold in two lots, one pertaining to the immovable properties namely land and building, and the other in respect of the plant and machinery; that the highest offer that was made in respect of the land and building, was only Rs.3.00 crores; that the same was accepted by this Court, pursuant to which, a sale deed was executed by the Official Liquidator on 7.4.2004, and under such circumstances, the order of the first respondent stating that it is undervalued, and it should have been

valued for Rs.4.35 crores is thoroughly unfounded, and hence, it has got to be set aside.
5. In answer to the above, it is contended by the learned Additional Government Pleader that the machineries and the land and building all constitute one integral part, and hence, the total value of Rs.4.35 crores should have been taken as consideration, and the stamp duty should have been paid therefor, and hence, the order of the lower authority has got to be sustained.

6. After careful consideration of the rival submissions made, the Court is of the considered opinion that it is a fit case, where the writ as asked for by the petitioner, has got to be issued.
7. Only after accepting the highest offer, this Court has issued directions to the Official Liquidator to execute the sale deed. Accordingly, a sale deed was executed by the Official Liquidator in respect of the land and building, in consideration of Rs.3.00 crores on 7.4.2 004. Under such circumstances, there cannot be insistence by the department stating that the stamp duty has got to be paid either for the guideline value or for the higher value, since the machinery forms part of the building. A reading of the sale deed in question would clearly indicate that the assets namely land and building were sold by the Official Liquidator under the sale deed only in consideration of Rs.3.00 crores, and hence, the contention of the department has got to be negatived. This Court is unable to notice any reason to hold that the document is undervalued, in view of the fact that it was a sale conducted by the Official Liquidator, pursuant to the orders of this Court, that too in a public auction. Under the circumstances, this Court is of the view that the contentions put forth by the respondents' side to sustain the order under challenge cannot be countenanced, and thus, the order of the first respondent has got to be quashed. Accordingly, it is quashed.

8. Therefore, this writ petition is allowed. A direction is issued to the third respondent to return the document, on registration of the same, to the petitioner within a period of one month herefrom. No costs. Consequently, connected WPMP is closed.

Index: yes
Internet: yes

To:

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nsv/